

1                                   **THE UNITED STATES DISTRICT COURT**  
2                                   **FOR THE WESTERN DISTRICT OF WISCONSIN**

3 CAROL CHESEMORE, DANIEL )  
4 DONKLE, THOMAS GIECK, MARTIN )  
5 ROBBINS, and NANETTE STOFLET, on )  
6 behalf of themselves, individually, and on )  
7 behalf of all others similarly situated, )

8                                   Plaintiff, )

9                                   v. )

10 ALLIANCE HOLDINGS, INC., A.H.I., INC., )  
11 AH TRANSITION CORPORATION, DAVID B. )  
12 FENKELL, KAREN FENKELL, PAMELA )  
13 KLUTE, JAMES MASTERANGELO, STEPHEN )  
14 W. PAGELOW, JEFFREY A. SEEFELDT, )  
15 ALPHA INVESTMENT CONSULTING )  
16 GROUP, LLC, and JOHN MICHAEL MAIER, )

17                                   Defendants, )

18                                   and )

19 TRACHTE BUILDING SYSTEMS, INC. )  
20 EMPLOYEE STOCK OWNERSHIP PLAN and )  
21 ALLIANCE HOLDINGS, INC. EMPLOYEE )  
22 STOCK OWNERSHIP PLAN AND TRUST, )  
23 )

24                                   Nominal Defendants. )  
25 )  
26 )  
27 )  
28 )

**Case 3:09-cv-000413-wmc**

**Hon. William M. Conley**

**DEFENDANT-APPELLANT DAVID B.  
FENKELL'S NOTICE OF APPEAL**

18                   Defendant-Appellant David B. Fenkell hereby notices his appeal to the United States Court of  
19 Appeals for the Seventh Circuit from (1) this Court's August 28, 2015, Opinions and Orders [Dkts.  
20 1085, 1086, and 1087 (at Dkt. 1087, which Judge William M. Conley signed on the 27th day of August,  
21 2015, and entered in this action on the 28th day of August, 2015, Judge Conley granted in part the  
22 "Motion of Judgment Creditors Alliance Holding[s, Inc.] ESOP [(Employee Stock Ownership Plan and  
23 Trust)] to Enforce the Judgment, for a Constructive Trust, Temporary Restraining Order and Injunction  
24 Freezing Fenkell Assets, and for Attorneys' Fees," and, among other things, ordered Mr. Fenkell to  
25 restore to the Alliance ESOP \$2,044,014.42 within seven (7) days of this Court's Order or show cause  
26 why he should not be held in civil contempt of court; (2) this Court's November 18, 2015, Opinion and  
27  
28

1 Order [Dkt. 1121], denying Mr. Fenkell's Motion for Reconsideration of this Court's August 28, 2015,  
2 Opinions and Orders; (3) this Court's December 9, 2015, Agreed Consent Order [Dkt. 1132](e.g.,  
3 including without limitation, to the extent that this Court's December 9, 2015, Agreed Consent Order  
4 renders this Court's November 18, 2015, Opinion and Order a non-final order, and/or with respect to the  
5 denial of Mr. Fenkell's Motion to Stay, Mr. Fenkell being held in civil contempt, the requirement of Mr.  
6 Fenkell to post a *supersedeas* bond and to have pledged collateral that he did not own and was otherwise  
7 exempt from attachment in order to secure the *supersedeas* bond and cure this Court's holding of Mr.  
8 Fenkell in civil contempt, and this Court's imposition of fines and imprisonment consistent with this  
9 Court's November 18, 2015, Opinion and Order); and (4) this Court's February 3, 2015, Opinion and  
10 Order [Dkt. 1031]. The Docketing Statement required pursuant to Circuit Rule 3(c)(1) of the United  
11 States Court of Appeals for the Seventh Circuit is filed as an attachment to this Notice of Appeal.  
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13 Dated: December 9, 2015

Respectfully submitted,

HAWKINS PARNELL THACKSTON & YOUNG

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20 /s/ Douglas A. Rubel  
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25 *Attorneys for David B. Fenkell*

**CERTIFICATE OF SERVICE**

This is to certify that on this 9<sup>th</sup> day of December 2015, I caused to be electronically filed the foregoing NOTICE OF APPEAL (including the Docketing Statement required pursuant to Circuit Rule 3(c)(1) of the United States Court of Appeals for the Seventh Circuit filed as an attachment to this Notice of Appeal along with a separate Certificate of Service for the Docketing Statement) via this Court's CM/ECF system, which sent electronic notice to all counsel of record.

/s/ Douglas A. Rubel  
Douglas A. Rubel